

# SENATE BILL No. 190

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-8; IC 36-8-9.

**Synopsis:** Board of metropolitan police commissioners. Permits a town board to abolish the office of town marshal and establish a board of metropolitan police commissioners by adopting an ordinance. (Current law requires approval at a referendum before adoption of the ordinance.) Eliminates the requirement that not more than one-half of the members of the police department of a town be members of the same political party. Permits the board of trustees of the public employees' retirement fund to grant service credit in the 1977 police officers' and firefighters' pension and disability fund to former town marshals and deputy town marshals who become employees of a board of metropolitan police commissioners.

**Effective:** Upon passage.

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January 6, 1998, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

## SENATE BILL No. 190

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-8-8-18 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Except as  
3 provided in subsection (b), if a unit becomes a participant in the 1977  
4 fund, credit for prior service by police officers (**including prior**  
5 **service as a town marshal or deputy town marshal by a police**  
6 **officer employed by a metropolitan board of police commissioners**)  
7 or **by** firefighters before the date of participation may be given by the  
8 PERF board only if:  
9 (1) the unit contributes to the 1977 fund the amount necessary to  
10 amortize prior service liability over a period of not more than  
11 forty (40) years, the amount and period to be determined by the  
12 PERF board; and  
13 (2) the police officers or firefighters pay, either in a lump sum or  
14 in a series of payments determined by the PERF board, the  
15 amount that they would have contributed if they had been  
16 members of the 1977 fund during their prior service.

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1 If the requirements of subdivisions (1) and (2) are not met, a fund  
2 member is entitled to credit only for years of service after the date of  
3 participation.

4 (b) If a unit becomes a participant in the 1977 fund under section  
5 3(c) of this chapter, or if a firefighter becomes a member of the 1977  
6 fund under section 7(g) of this chapter, credit for prior service before  
7 the date of participation or membership may be given by the PERF  
8 board only if the following requirements are met:

9 (1) The unit contributes to the 1977 fund the amount necessary to  
10 fund prior service liability amortized over a period of not more  
11 than ten (10) years. The amount of contributions must be based on  
12 the actual salary earned by a first class firefighter at the time the  
13 unit becomes a participant in the 1977 fund, or the firefighter  
14 becomes a member of the 1977 fund, or if no such salary  
15 designation exists, the actual salary earned by the firefighter.  
16 However, credit for prior service is limited to the amount  
17 necessary to allow the firefighter to accrue twenty (20) years of  
18 service credit in the 1977 fund by the time the firefighter reaches  
19 fifty-five (55) years of age. The limit on credit for prior service  
20 does not apply if the firefighter was a member of the 1937 fund or  
21 1977 fund whose participation was terminated due to the creation  
22 of a new fire protection district under IC 36-8-11-5 and who  
23 subsequently became a member of the 1977 fund. A firefighter  
24 who was a member of or reentered the 1937 fund or 1977 fund  
25 whose participation was terminated due to the creation of a new  
26 fire protection district under IC 36-8-11-5 is entitled to full credit  
27 for prior service in an amount equal to the firefighter's years of  
28 service before becoming a member of or reentering the 1977 fund.  
29 Service may only be credited for time as a full-time, fully paid  
30 firefighter or as an emergency medical technician under section  
31 7(g) of this chapter.

32 (2) The amount the firefighter would have contributed if the  
33 firefighter had been a member of the 1977 fund during the  
34 firefighter's prior service must be fully paid and must be based on  
35 the firefighter's actual salary earned during that period before  
36 service can be credited under this section.

37 (3) Any amortization schedule for contributions paid under  
38 subdivision (1) and contributions to be paid under subdivision (2)  
39 must include interest at a rate determined by the PERF board.

40 (c) This subsection applies to a unit that:

41 (1) becomes a participant in the 1977 fund under section 3(c) of  
42 this chapter; and



1 (2) is a fire protection district created under IC 36-8-11 that  
 2 includes a township or a municipality that had a 1937 fund.  
 3 A firefighter who continues uninterrupted service with a unit covered  
 4 by this subsection and who participated in the township or municipality  
 5 1937 fund is entitled to receive service credit for such service in the  
 6 1977 fund. However, credit for such service is limited to the amount  
 7 accrued by the firefighter in the 1937 fund or the amount necessary to  
 8 allow the firefighter to accrue twenty (20) years of service credit in the  
 9 1977 fund by the time the firefighter becomes fifty-five (55) years of  
 10 age, whichever is less.

11 (d) The unit shall contribute into the 1977 fund the amount  
 12 necessary to fund the amount of past service determined in accordance  
 13 with subsection (c), amortized over a period not to exceed ten (10)  
 14 years with interest at a rate determined by the PERF board.

15 (e) If the township or municipality has accumulated money in its  
 16 1937 fund, any amount accumulated that exceeds the present value of  
 17 all projected future benefits from the 1937 plan shall be paid by the  
 18 township or municipality to the unit for the sole purpose of making the  
 19 contributions determined in subsection (d).

20 SECTION 2. IC 36-8-8-18.1 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.1. **(a) As used**  
 22 **in this section, "police officer" includes a former town marshal or**  
 23 **deputy town marshal who is employed as a police officer by a**  
 24 **metropolitan board of police commissioners.**

25 **(b)** If a unit becomes a participant in the 1977 fund and the unit  
 26 previously covered police officers, firefighters, or emergency medical  
 27 technicians in PERF, or if the employees of the unit become members  
 28 of the 1977 fund under section 7(g) of this chapter, the following  
 29 provisions apply:

30 (1) A minimum benefit applies to members electing to transfer or  
 31 being transferred to the 1977 fund from PERF. The minimum  
 32 benefit, payable at age fifty-five (55), for such a member equals  
 33 the actuarial equivalent of the vested retirement benefit payable  
 34 to the member upon normal retirement under IC 5-10.2-4-1 as of  
 35 the day before the transfer, based solely on:

36 (A) creditable service;  
 37 (B) the average of the annual compensation; and  
 38 (C) the amount credited to the annuity savings account;  
 39 of the transferring member as of the day before the transfer under  
 40 IC 5-10.2 and IC 5-10.3.

41 (2) The PERF board shall transfer from PERF to the 1977 fund  
 42 the amount credited to the annuity savings accounts and the



1 present value of the retirement benefits payable at age sixty-five  
2 (65) attributable to the transferring members.

3 (3) The amount the unit and the member must contribute to the  
4 1977 fund under section 18 of this chapter, if any service credit  
5 is to be given under that section, will be reduced by the amounts  
6 transferred to the 1977 fund by the PERF board under subdivision  
7 (2).

8 (4) Credit for prior service in PERF of a member as a police  
9 officer, a firefighter, or an emergency medical technician is  
10 waived in PERF. Any credit for that service under the 1977 fund  
11 shall only be given in accordance with section 18 of this chapter.

12 (5) Credit for prior service in PERF of a member, other than as a  
13 police officer, a firefighter, or an emergency medical technician,  
14 remains in PERF and may not be credited under the 1977 fund.

15 SECTION 3. IC 36-8-9-2 IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~(a) Whenever~~ The legislative  
17 body of a town ~~adopts a resolution providing for the abolition of~~ **may**  
18 **by ordinance:**

19 (1) **abolish** the office of town marshal; and ~~the establishment of~~  
20 (2) **establish** a board of metropolitan police commissioners  
21 (referred to as "the board" in this chapter). ~~the following question~~  
22 ~~shall be certified to the county election board under IC 3-10-9-3~~  
23 ~~and submitted to the voters of the town at the next general or~~  
24 ~~primary town election:~~

25 "Shall a board of metropolitan police commissioners be  
26 established and the office of town marshal be abolished?":

27 This question shall be printed on the ballot prepared for the election in  
28 the form prescribed by IC 3-10-9-4.

29 (b) The vote on the question shall be canvassed by the county  
30 election board and the result certified to the town legislative body. If a  
31 majority of the voters of the town voting on the question favor the  
32 establishment of a board of metropolitan police commissioners; the  
33 legislative body shall by ordinance establish the board.

34 SECTION 4. IC 36-8-9-4 IS AMENDED TO READ AS FOLLOWS  
35 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board may appoint,  
36 subject to the approval of **qualifications for employment determined**  
37 **by the board and approved by** the town legislative body, as many  
38 persons as necessary to serve in the police department of the town. One  
39 (1) person shall be appointed to serve as the police chief. ~~No more than~~  
40 ~~one-half (1/2) of the persons appointed may be members of the same~~  
41 ~~political party; as long as the prerequisites of employment as~~  
42 ~~determined by the board are observed.~~ The board may also appoint



1 other employees that are necessary to carry on the work of the police  
2 department:

3 (b) The board may recommend and the town legislative body shall  
4 determine the compensation to be paid to members of the police  
5 department in amounts that are just and reasonable.

6 (c) All persons appointed must be of good moral character and serve  
7 only during good behavior. The board constitutes the safety board of  
8 the town for purposes of the suspension, demotion, or dismissal of any  
9 member of the police department. Proceedings for the suspension,  
10 demotion, or dismissal of any member of the police department shall  
11 be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary  
12 provisions of IC 36-8-3-4.1 also apply to the safety board and the  
13 police chief.

14 (d) The board may make general and special rules for the  
15 government and discipline of the police department and may make  
16 special and general orders to the department through the police chief,  
17 who is the executive head of the department.

18 (e) Members of the police department must:

- 19 (1) reside within the county in which the town is located;  
20 (2) reside within fifteen (15) miles of the corporate boundaries of  
21 the town;  
22 (3) have adequate means of transportation into the town; and  
23 (4) maintain in their residence telephone service with the town.

24 **SECTION 5. An emergency is declared for this act.**

